

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Richard Ginn

Serial No.: Not Yet Assigned

Filed: Herewith (February 5, 2004)

For: Apparatus and Methods for Treating Spinal  
Discs

)  
) **Previous Group Art Unit: 3732**

)  
) **Previous Examiner: Eduardo C. Robert**

INFORMATION DISCLOSURE STATEMENT

MAIL STOP INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449. Copies of the references were mailed to the USPTO on January 23, 2004 in Application Serial No. 09/947,785 filed on September 6, 2001 and are not enclosed.


The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail Post Office To Addressee in an envelope addressed to the MAIL STOP INFORMATION DISCLOSURE STATEMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Express Mail No. EV 339737951 US

Date of Deposit: February 5, 2004

  
Lynne Fulmer

**INFORMATION DISCLOSURE STATEMENT FILING PROVISION:**

☒ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☐ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☐ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

**STATEMENT UNDER 37 CFR § 1.97(e):**

☐ Each item contained in this IDS was cited in a communication from a foreign patent office (International Search Report dated June 21, 2002) in a counterpart foreign application not more than three months prior to the filing of this IDS.

☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

**PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:**

☐ A check in the amount of \_\_\_\_\_ is enclosed for the above fee(s).

☐ Please charge \_\_\_\_\_ to Deposit Account No. **150665** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. **150665**.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: February 5, 2004

By:   
James W. Geriak, Reg. No. 20,233

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Irvine, CA 92614  
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949/567-6710 Facsimile

<b>FORM PTO-1449</b>  <b>LIST OF PATENTS AND OTHER ITEMS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT</b>  (Use several sheets if necessary)	<b>ATTY. DOCKET NO.</b> 704117.4012	<b>SERIAL NO.</b> Not Yet Assigned
	<b>APPLICANT:</b> Richard S. Ginn	
	<b>FILING DATE:</b> Herewith (Feb. 2, 2004)	<b>PREVIOUS GROUP:</b> 3732

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE
		3,678,158	7/18/1972	Sussman			
		3,875,595	4/8/1975	Froning			
		3,941,127	3/2/1976	Froning			
		3,944,114	3/16/1976	Coppens			
		3,964,480	6/22/1976	Froning			
		4,439,423	3/27/1984	Smith			
		4,638,799	1/27/1987	Moore			
		4,719,108	1/12/1988	Smith			
		4,744,364	5/17/1988	Kensey			
		4,772,287	9/20/1988	Ray et al.			
		4,852,568	8/1/1989	Kensey			
		4,863,477	9/5/1989	Monson			
		4,878,915	11/7/1989	Brantigan			
		4,904,260	2/27/1990	Ray et al.			
		4,968,298	11/6/1990	Michelson			
		5,015,247	5/14/1991	Michelson			
		5,021,059	6/4/1991	Kensey et al.			
		5,061,274	10/29/1991	Kensey			
		5,114,032	5/19/1992	Laidlaw			
		5,123,926	6/23/1992	Pisharodi			
		5,192,301	3/9/1993	Kamiya et al.			
		5,192,302	3/9/1993	Kensey et al.			

DOCSOC1:146798.1 704117-1 J2G PREVIOUS EXAMINER Eduardo C. Robert	<b>DATE CONSIDERED:</b>
EXAMINER: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant	

<b>FORM PTO-1449</b>  <b>LIST OF PATENTS AND OTHER ITEMS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT</b>  (Us s v ral she ts if n c ssary)	<b>ATTY. DOCKET NO.</b> 704117.4012	<b>SERIAL NO.</b> Not Yet Assigned
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		5,222,974	6/29/1993	Kensey et al.			
		5,275,616	1/4/1994	Fowler			
		5,306,254	4/26/1994	Nash et al.			
		RE 34,866	2/21/1995	Kensey et al.			
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		5,549,679	8/27/1996	Kuslich			
		5,571,189	11/5/1996	Kuslich			
		5,601,556	2/11/1997	Pisharodi			
		5,645,565	7/8/1997	Rudd et al.			
		5,674,296	10/7/1997	Bryan, et al.			
		5,690,674	11/25/1997	Diaz			
		5,720,748	2/24/1998	Kuslich et al.			
		5,728,146	3/17/1998	Burkett, et al.			
		5,800,549	9/1/1998	Bao et al.			
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		5,865,846	2/2/1999	Bryan, et al.			
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		5,964,807	10/12/1999	Gan et al.			

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		5,972,015	10/26/1999	Scribner et al.			
		5,972,031	10/26/1999	Biedermann et al.			
		6,001,130	12/14/1999	Bryan, et al.			
		6,077,570	12/28/1999	Sharkey et al.			
		6,022,376	2/8/2000	Assell et al.			
		6,048,346	4/11/2000	Reiley et al.			
		6,056,749	5/2/2000	Kuslich			
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		6,066,154	5/23/2000	Reiley et al.			
		6,093,207	7/25/2000	Pisharodi			
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		6,122,549	9/19/2000	Sharkey et al.			
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		6,146,419	11/14/2000	Eaton			
		6,156,067	12/5/2000	Bryan, et al.			
		6,183,518 B1	2/6/2001	Ross et al.			
		6,206,921 B1	3/27/2001	Guagliano et al.			
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		6,221,109 B1	4/24/2001	Geistlich, et al.			
		6,248,131 B1	6/19/2001	Felt, et al.			
		6,482,235	11/29/2002	Lambrech et al.			
		6,547,810	4/15/2003	Sharkey et al.			
		US2002/0016583	Pub 2/7/2002	Cragg			

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		US2002/0077701A1	Pub 6/20/2002	Kuslich			
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FOREIGN PATENT DOCUMENTS								
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION YES NO	

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)		
		PCT Publication No. WO 97/26847, "Articulating Joint Repair," Felt et al., 7/31/1987
		PCT Publication No. WO 99/02214, "Interbody Device and Method for Treatment of Osteoporotic Vertebral Collapse," Charles Ray et al., 1/21/1999
		PCT Publication No. WO 00/69374, "Alloplastic Vertebral Disk Replacement," L. Easton et al. 11/23/00
		PCT Publication No. WO 00/71032 A2, "Hemostatic Device for Angioplasty," Marius Saines 11/30/00
		E.H. Cassinelli, M.D. et al., "Biochemistry of Intervertebral Disk Degeneration and the Potential for Gene Therapy Applications," SpineLine, The Clinical & News Magazine for Spine Care Professionals, Vol. 11, Issue 1, Jan-Feb. 2001
		Philip P. Finch, et al., PCT Publication No. WO 01/45579 Amendment, "Apparatus for Thermal Treatment of an Intervertebral Disc", June 28, 2001.
		Maurice Hiles, "New Specialty Polymer Products Through Interpenetrating Polymer Network (IPN) Technology -- The Development of an Interpenetrating Polymer Network to Contain Mechanically Induced Vibration," Oct. 20-21, 1986, Colony Square Hotel, Atlanta, GA
		William F. McKay, PCT Publication No. WO 01/45577 A2, "Intervertebral Disc Treatment Devices and Methods", June 28, 2001
		K. Nishimura, M.D., et al., "Percutaneous Reinsertion of the Nucleus Pulposus, An Experimental Study", SPINE Vol. 23, No. 14, pp. 1531-1539, 1998

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